

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

FILED

JUL 19 2010

CLERK, U.S. DISTRICT COURT
NORFOLK, VA

TYRONE LAMONT WALLER, #0007767, :

:

Petitioner,

v. : CIVIL ACTION NO. 2:09cv442

:

GENE M. JOHNSON,
Director, Virginia Department of
Corrections,

:

Respondent.

:

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to petitioner's convictions of possession of cocaine and possession of a firearm by a convicted felon.

The matter was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia.

The Magistrate Judge filed his Report and Recommendations on May 26, 2010, recommending dismissal of the petition. By copy of the report, each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On June 1, 2010, the petitioner's copy of the Report and Recommendations was returned to the Court as "Moved

Without Forwarding Address". Subsequent efforts by the Court to locate the petitioner revealed his current place of incarceration to be St. Brides Correctional Center. On June 15, 2010 the Court entered an Order directing the Clerk to forward a copy of the Report and Recommendations to the petitioner at his current address and further ordered that petitioner shall have fourteen (14) days from the date of that Order to file written objections to the Report and Recommendations. The Court has received no objections to the Report and Recommendations and the time for filing objections has expired.

The Court, having reviewed the record and the findings and recommendations of the Magistrate Judge, no objection having been made, does hereby adopt and approve the findings and recommendations set forth in the Report of the United States Magistrate Judge filed May 26, 2010. It is, therefore, ORDERED that the respondent's motion to dismiss be GRANTED and the petition be DENIED and DISMISSED and that judgment be entered in favor of the respondent.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment.

Petitioner has failed to demonstrate "a substantial showing of

the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to the petitioner and to counsel of record for the respondent.

/s/ 

REBECCA BEACH SMITH
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
July 19, 2010